

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No.17873 of 2014

Date of decision : 25.02.2016

Rattan Chand

...Petitioner

Versus

The Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL.
HON'BLE MR. JUSTICE RAJ MOHAN SINGH.**

Present: Mr. B.K.Sharma, Advocate
for the petitioner.

Mr.Brijeshwar Singh Kanwar, Sr.Standing Counsel
for UOI- respondents No.2 to 5.

RAJ MOHAN SINGH, J.

1. Petitioner has assailed order dated 10.1.2014 (Annexure P-1) and 26.2.2014 (Annexure P-2) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal) in OA No.162/CH/2012 and Review Application No. 060/00033/2014 respectively.

2. Petitioner had filed aforesaid Original Application Challenging order dated 25.8.2011 passed by the Director, General (R&D), Defence Research and Development

Organisation, New Delhi and order dated 20.4.2011 passed by the Director, IRDE, Department of Defence Research and Development Organization, Dehradun being illegal and arbitrary and direction was sought against the respondents to consider the claim of the petitioner regarding his seniority by giving promotion from the date when employees, namely, Ved Mitter and Balwinder Singh were promoted. Prayer in respect of reconsideration and modification of seniority lists dated 7.1.2011 and 29.3.2011 was also made vis-a-vis the date when the aforesaid two persons were assigned the seniority.

3. Petitioner was appointed as Fireman Grade II on 12.7.1988 in the Snow and Avalanche Establishment at Manali. He remained on the said post for 14 years till 2004. Thereafter, vide letter dated 26.3.1998, there was restructuring in the Fire Cadre in DRDO and the posts of Fireman Grade II and Fireman Grade I were merged and re-designated as Fireman in the pay scale of 2750-4400. On account of restructuring, the existing strength of 244 Fireman Grade I/ Grade II were reduced to revised strength of 190 Firemen. Petitioner claimed that after restructuring, respondent No.3, vide letter dated 9.7.1998 issued revised authorization for the posts of Fireman and Senior Fireman 'A' for various laboratories and establishments, but no post of Senior Fireman 'A' was given to the establishment of respondent No.4.

4. Respondent No.4 requested respondent No.3, vide letter dated 28.7.1998, regarding revised authorization of two posts of Senior Fireman 'A', but the letter was issued only for one post of Fireman, which was already in place prior to restructuring of the cadre. It was pointed out that vide letter dated 4.12.1998, respondent No.4 again requested for revised authorization of two posts of Senior Fireman 'A' on the ground that one Fireman had already completed 19 years of service and another had completed ten years of service. Respondent No.3 instead of adhering to the request of respondent No.4, replied that four posts of Fireman had already been allocated to the establishment of respondent No.4. Promotion to the post of Senior Fireman 'A' could have been made only after completion of five years of regular service in the grade of Fireman, therefore, no post of Senior Fireman was allocated to the establishment of respondent No.4.

5. The petitioner was promoted to the post of Senior Fireman 'A' for the first time on 1.1.2008 on being given authorisation by respondent No.3 in favour of respondent No.4. In the year 2010, the fire fighting cadre was again restructured and the petitioner asserted that his juniors have marched over him.

6. On consideration, we find that petitioner seeks to espouse the cause in representative capacity without fulfilling

material requirement either in terms of Order 1 Rule 8 of CPC or by way of authorization by some association, if any, in his favour. Apparently, petitioner was not promoted to the post of Senior Fireman, therefore, locus standi to file the present petition is necessary to be answered. Petitioner could not satisfy as to how he can maintain the present petition by solely espousing his cause by exposing the cause of the establishment to which he belongs. No association of Fireman belonging to the establishment of the petitioner has come forward to challenge the inaction of respondent No.3 in not making allocation of post of Senior Fireman 'A' to the establishment of the petitioner and the allocation has been made to the sister concern of the establishment of the petitioner.

7. The post of Senior Fireman 'A' and Senior Fireman 'B' were also merged and were re-designated as Leading Fireman. Similarly, posts of Fire Supervisor and Fire Master were also merged and were re-designated as Station Officer. The Recruitment Rules framed for re-structured post of Fireman provided for filling up 50% of posts of Fireman by promotion from existing Fireman Grade II with five years of service. Further promotion as per the criteria in the Rules was to be done at the level of the respondents.

8. Petitioner intends to espouse the cause on behalf of the establishment to which he belongs by alleging that allocation

of the post of Senior Fireman Grade 'A' to sister concern of the establishment of the petitioner was discriminatory and the establishment of the petitioner was also entitled for such allocation. In such eventuality, the petitioner and others would have staked their claim for promotion. In considered opinion of this Court, this cannot be made subject matter of judicial review. Court cannot sit as an appellate or revisional authority over the policy matter of department.

9. The promotions have been made as per rules and eligibility criteria of the employees. The claim for earlier promotion as Leading Fireman was dependent upon the availability of vacancies. Non allocation of post to the establishment of the petitioner cannot be put in service for pre-empting such a claim as the same was dependent upon the availability of vacancies in the cadre.

10. The Tribunal has rightly pointed out that since the seniority of the feeder cadre of Leading Fireman for promotion to Station Officer is prepared only after integration of names of the Leading Fireman in the different laboratories in the zone, a person in such seniority list draws seniority from the date of his promotion in his parent cadre/ DRDO laboratory. The petitioner and the private respondents were not from the same laboratories, rather they belong to different laboratories, therefore, petitioner cannot assert his claim for seniority over

and above the persons belonging to different laboratories. On the point of locus standi also, the petitioner could not satisfy us as to how he can espouse the claim on behalf of the establishment in which he was working.

11. Having considered the controversy in the light of aforesaid facts, this Court is unable to agree with the contention raised by the petitioner. Hence, this writ petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

(M. JEYAPPAUL)
JUDGE

February 25, 2016

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